SUMMARY OF THE ART REJECTIONS:

(1) Claims 1-3, 5-11, 14 and 17-28 stand rejected under 35 U.S.C.§102(e) as allegedly being anticipated by Skelton et al. (U.S. 6,292,692 hereafter "Skelton").

(2) Claims 4 and 12 stand rejected under 35 U.S.C.§103(a) as allegedly being obvious over Skelton in view of Rockwell et al. (U.S. 6,141,584, hereafter "Rockwell").

(3) Claims 13 and 15-16 stand rejected under 35 U.S.C.§103(a) as allegedly being obvious over Skelton in view of Powers et al. (U.S. 5,879,374 hereafter "Powers").

APPLICANTS' TRAVERSAL:

(1) Applicants respectfully submit that none of the present claims are anticipated by Skelton. Skelton discloses a conventional medical treatment device except that passcodes are required for the implementation/retrieval of certain functions, as the machine may be used by persons have a broad range of training skills.

For example, as shown in Fig. 3, the defibrillator dislcosed by Skeleton has a printer 62 for printing ECG data as an output chart. In addition, Skelton discloses a input/output device module

64 (preferable in the form of a PCMCIA interface) so that patient information can be transferred to an external display device. Applicants respectfully submit that Skelton fails to disclose or suggest that, for example, recited in claim 1, the deployment of a defibrillator, monitoring of the ECG data, recording the ECG data, and displaying same in an incident review mode on the same screen. Applicants respectfully submit that the Skelton's disclosure with regard to ECG data at column 7, lines 26-35 is with regard to "ECG markers to be recorded on the same chart." Applicants respectfully submit that the output chart is a printout from the printer 62 and not a display of history on the defibrillator screen. A chart and display are clearly distinguishable, as the printout of ECG data is conventional in the art. Applicants disclose on page 2 of the instant specification that the inclusion of a printer to provide ECG data makes an AED device heavy, cumbersome to use, and increases its size.

Applicants also respectfully submit that although Skelton indicates at column 9, lines 64-67 that various medical treatment device modules can be graphically displayed, Skelton fails to disclose or suggest that a recorded ECG history can be displayed. Applicants respectfully submit that the "display of a various treatment device modules" does not include ECG history, as ECG

history is not a "treatment module." Applicants respectfully refer to column 4, lines 10-20, wherein modules are defined as a defibrillator module, pacing therapy module, pulse oximeter data, blood pressure data, blood gas data, and pulse data. Skelton also discloses "a printer for providing ECG traces or a log of medical treatment during a medical treatment episode." Clearly, it is respectfully submitted that Skelton only discloses ECG data in terms of print outs, which is conventional in the art.

For at least the above reasons, it is respectfully submitted that none of the instant claims are anticipated by Skleton, as the references fails to disclose all of the elements are cited by Applicants' claims. Applicants respectfully submit that apparatus base claim 19 is also not anticipated for similar reasons that method base claim 1 is not anticipated. The respective dependent claims are believed to be allowable at least for dependency upon an allowable base claim, and because of a separate basis for patentability.

In addition, the Court of Appeals for the Federal Circuit held in *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628,631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987):

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described,

in a single prior art reference.

As for the reasons previously indicated, the Office Action fails to set forth each and every claimed element in a single reference. Reconsideration and withdrawal of this ground of rejection are respectfully requested.

Items (2) and (3):

Applicants respectfully submit that claims 4, 12 and 13-16 would not have been obvious to a person of ordinary skill in the art over the respective combinations of Skelton and Rockwell or Skelton and Powers. Either combination fails to disclose, suggest or motivate an artisan such that the respective claims would have been obvious at the time of invention. Neither combination discloses or suggests an AED permitting recording and display of ECG data while using the defibrillator.

Applicants respectfully submit that the teaching used in the Office Action comes from the instantly claimed invention, not from the teachings of the combination of references. Applicants note that it was held by the Court of Appeals in *In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992) that:

> Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so. Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious "modification" of the prior art. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.

In the present case, it is respectfully submitted that the teachings of the combination of references do not overcome the standard of establishing obviousness as exemplified in *Fritch*.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Should the Examiner deem that there are any issues which may be best resolved by telephone communication, he is respectfully requested to telephone Applicants' undersigned Attorney at the number listed below.

Respectfully submitted,
Tony Piotrowski
Registration No. 42,080

By: Steve Cha
Attorney for Applicant
Registration No. 44,069

Date: June 25, 2002

SG/lc

Enclosures: Marked up Version Showing Changes Made

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Daniel J. Powers *et al.*

SERIAL NO.: 09/418,536 EXAMINER: Frances P. Oropeza

FILED: October 14, 1999 ART UNIT: 3762

FOR: METHOD AND APPARATUS FOR PROVIDING ON-SCREEN INCIDENT REVIEW IN AN AED

VERSION WITH MARKINGS SHOWING CHANGES

Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

In response to the Office Action dated March 25, 2002, the Applicant requests amendment of the above-identified application as follows:

IN THE CLAIMS:

Please amend the following claims:

7. (Amended) The method of claim 2 wherein prior to the replaying step, [the] a user selects which information is replayed.

9. (Amended) The method of claim 1 wherein the ECG data is selected from the group consisting of: patient ECG data and patient therapy data.

15. (Twice Amended) The method of claim 2 wherein the replaying is optional and the replaying option is presented to [the] a user when the instrument is turned off.

16. (Twice Amended) The method of claim 2 wherein the replaying is optional and the replaying option is presented to [the] a user when a battery is inserted into the defibrillator.

17. (Amended) The method of claim 2 wherein the defibrillator continues to monitor [patient] the patient's ECG.

19. (Three Times Amended) An external defibrillator comprising:

a controller;

an energy delivery system operable by the controller to deliver an electrical shock from an energy source to an electrode interface;

memory for recording incident data;

a screen;

an incident review activator; and

an incident review output comprising a visual image generator, wherein the incident review output retrieves the incident data from memory upon activation of the incident review activator by the user and displays the retrieved incident data on the defibrillator screen without requiring communication with an external device.